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96-45

Re: Universal Service Fund E-rate Program

May 7, 2003

Chairman and Commissioners
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

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Federal Communications Commission
Office of the Secretary

Dear Chairman and Commissioners,

I recently read that FCC Commissioner Kathleen Abernathy is having a hearing on May 8, 2003 in regards to the e-rate program. I request that you investigate the fraud, abuse and waste of money in the USF program as explained below.

I am an ISP vendor in New Jersey and we have found wide spread monetary waste and abuses in the purchase of internet access services by libraries and schools in New Jersey who illegally avoid competition. In New Jersey any bid over \$17,500 is required to be bid. However, e-rate eligible entities in New Jersey use the USF form 470 28 day notice in place of the required advertised bid and then award to the higher bids and prices of their personal favorites and ignore the lowest bidders. The entities then request and receive e-rate discount funds for these non-competed high priced awards.

Had the school or library entity actually went to public advertised bid as required by New Jersey law the price for Internet would be less than what most schools pay after they receive the e-rate discount and reimbursement. Consequently, the entire amount paid by the ratepayers into the USF is wasted away paying illegally procured excessively high priced contracts. The USF is clearly not adequately managing the funds or lacks any responsible procedure to insure efficient and honest funding. The present state of the program in New Jersey raises the price of services instead of reducing the price of services. This also applies to telecommunications services such as telephone costs as well.

Another part of the lack of competition problems in New Jersey is even though New Jersey has opened up competition for telecommunications services such as T1 circuits and local, regional and long distance it still has exemptions from competition for the purchasing of regulated

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telecommunications services in its Public Bid laws. That makes no sense and contradicts the intent for competition. It may of made sense before the Telecommunications Act of 1996, when there was only the incumbents but is ridiculous now to have literally 100's of CLECS each of which is exempt from competition in New Jersey. I am sure this condition of exemption from competition is not unique to New Jersey.

Three such examples in New Jersey among a list of about one thousand (1000) libraries and schools are,

1. Middletown Township Bd of Ed., New Jersey.

Mr. William Doering the business administrator has paid to Verizon from \$3000 to \$4000 per month since June 1999 under contract that he has renewed until June 2005. He feels that Internet should not be competed even though the school law requires it. Mr. Doering signs illegal contracts without any public meetings at excessive amounts. The USF continues to fund this illegal activity.

2. Jersey City Public Schools, New Jersey competed their Internet services through the legal process and paid \$120,000 per year for a 45Mbps connection. The Jersey City Library (in the same city) paid \$160,000 for the same service and did not compete as required by New Jersey law. The library stated the 28-day USF listing was the competition. However, the USF 470 form is not intended to circumvent state bidding laws. The library refused to accept any of the lower bids.

3. Morris Union Jointure Commission, New Jersey accepted a quote from Verizon at \$728 per month while we bid \$525 per month. The school said in writing they are too busy to make a change why don't we try to bid again next year.

There are around 1000 other horror stories like these of monetary waste and abuse of the USF e-rate program. Unless the program is radically overhauled it should be abolished.

Simple changes that could be applied are:

- 1) A certification that the lowest responsible bidder was accepted.
- 2) A certification that the school procured the services or equipment in accordance with the applicable state law.
- 3) A record of all bids submitted.
- 3) Cancellation of funding of any entity that that violates the above three rules.

I would have wanted to attend and participate in the FCC May 8, 2003 hearing to testify as to the extensive waste and abuse in New Jersey but was informed that all the seats were taken.

Notwithstanding any action the FCC may or may not take I have no choice but to initiate legal action in the State or Federal court to stop the above described illegal and wasteful practices on my own.

You can contact me at the below telephone numbers.

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Cc: George McDonald

Kindest regards,

A handwritten signature in cursive script, appearing to read "Isaac Fajerman".

Isaac Fajerman

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